

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF BRONX: CRIMINAL TERM: PART 22

3 -----x

4 PEOPLE OF THE STATE OF NEW YORK, INDICTMENT NO.

5 - against - 3825/06

6 RICARDO JIMINEZ, WADE HEARING

7 Defendant.

8 -----x

9 851 Grand Concourse  
10 Bronx, NY 10451  
June 15, 2007

11 B E F O R E:

12 HONORABLE MEGAN TALLMER, JSC

13 A P P E A R A N C E S:

14 FOR THE PEOPLE:

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16 District Attorney, Bronx County  
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Bronx, NY 10451  
17 BY: LISA MATTAWAY, ESQ.  
JOSEPH SHMULEWITZ, Intern

18  
19 FOR THE DEFENDANT:  
20 PATRICK L. BRUNO, ESQ.  
99 Tulip Avenue

21 Floral Park, NY

22

23

24 RENÉE SCOTT, CSR, RPR  
25 SENIOR COURT REPORTER

M O R N I N G                      S E S S I O N

THE CLERK: This is number two on the calendar, People of the State of New York against Ricardo Jiminez for a hearing.

Appearances please.

MS. MATTAWAY: Lisa Mattaway from the  
Office of the District Attorney.

THE COURT: Hi, Miss Mattaway.

MR. BRUNO: For the defendant, Patrick  
L. Bruno, 99 Tulip Avenue, Floral Park.

THE COURT: Okay. This case was sent to me for a Wade. The detective had an auto accident the other day but he's here today. Is that correct?

MS. MATTAWAY: Yes.

THE COURT: And what identifications are the subject of this hearing?

MS. MATTAWAY: There are two positive photo arrays. There was an additional photo array that defense counsel is aware of through discovery material where there was no identification made, so it's not the subject of the hearing but he has that in his materials.

There was also a confirmatory photo array identification on what's commonly referred

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1 to as a PIMS machine. Additionally --

2 THE COURT: A single photo?

3 MS. MATTAWAY: Well, I understand the  
4 witness viewed these coming up one at a time on a  
5 machine. So that's --

6 THE COURT: It wasn't that a single  
7 photo was shown to him?

8 MS. MATTAWAY: Right. He picked out a  
9 photo from a machine.

10 THE COURT: That is a type of photo  
11 array. It's just coming up one --

12 MS. MATTAWAY: Right. One at a time  
13 and that witness though also had familiarity with  
14 the defendant and, therefore, there's a Rodriguez  
15 Tass issue as to that witness.

16 THE COURT: How do you want to do  
17 this --

18 MS. MATTAWAY: Detective --

19 THE COURT: -- with different  
20 witnesses? We talking about two positive photo  
21 arrays which you are characterizing as a  
22 confirmatory --

23 MS. MATTAWAY: Yes, and Detective  
24 Stradford can handle all of this testimony.

25 THE COURT: So are you asking for a

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1 bifurcated hearing with respect to that one  
2 witness?

3 MS. MATTAWAY: Yes, please.

4 THE COURT: Because a separate Wade  
5 hearing with respect to the two other?

6 MS. MATTAWAY: Correct.

7 THE COURT: Do you have any problems  
8 with that, counsel?

9 MR. BRUNO: Not at all.

10 THE COURT: Have you turned over all  
11 prior statements by this witness, People?

12 MS. MATTAWAY: Yes.

13 THE COURT: Counsel, do you acknowledge  
14 receipt of them?

15 MR. BRUNO: Yes, your Honor, I so  
16 acknowledge.

17 THE COURT: Anything we should discuss  
18 before the witness testifies?

19 MS. MATTAWAY: There was an additional  
20 photo array identification procedure conducted  
21 just this morning by a different detective that  
22 was negative and I told defense counsel about  
23 that.

24 THE COURT: All right. Negative with  
25 respect to one of these three witnesses or --

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1 MS. MATTAWAY: Totally different  
2 person.

3 THE COURT: Okay.

4 MS. MATTAWAY: A new witness was turned  
5 over by the district attorney's office, a  
6 Detective Wall who showed that witness an array  
7 which included the photo of the defendant as he  
8 looked in 1989 and the witness was unable to make  
9 an identification but the witness stated words to  
10 the effect that he would be willing to come  
11 testify at trial. Perhaps if he saw him in  
12 person, he would make be able to make an  
13 identification in court but based on an array  
14 containing a 1989 photo he was unable to make an  
15 identification.

16 THE COURT: Counsel, this is what you  
17 characterize as a negative photo identification,  
18 correct?

19 MS. MATTAWAY: Yes. For the record,  
20 that witness who was shown the array this morning  
21 is Mike Centeno and the other witness with the  
22 negative array who under similar circumstances  
23 when shown an array said I can't I.D. off a photo  
24 maybe if I saw the person alive, that person's  
25 name is Robert Kane. Those are the two negative

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1 identifications so to speak.

2 THE COURT: Counsel, did you have  
3 something?

4 MR. BRUNO: I'm sorry, your Honor.

5 THE COURT: Did you want to say  
6 something?

7 MR. BRUNO: No, thank you.

8 MS. MATTAWAY: The people who are  
9 positive, okay, witness number one is Esco.  
10 Blaylock. He was the witness who made the  
11 identification at the precinct back in '89 and  
12 also has Rodriguez information for this court or  
13 Rodriguez knowledge.

14 THE COURT: He has the PIMS ID?

15 MS. MATTAWAY: Correct.

16 THE COURT: Okay.

17 MS. MATTAWAY: Second witness  
18 Christopher Cordero. Third witness --

19 THE COURT: How spell that?

20 MS. MATTAWAY: C-O-R-D-E-R-O.

21 THE COURT: Okay. Third.

22 MS. MATTAWAY: Andrew O'Brien. Common  
23 spelling.

24 THE COURT: All right.

25 MS. MATTAWAY: That's it.

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1 THE COURT: Are we ready to have the  
2 detective testify, counsel?

3 MS. MATTAWAY: Yes, ma'am.

4 THE COURT: Why don't you call him?

5 MS. MATTAWAY: The People call  
6 Detective Windel Stradford.

7 MS. MATTAWAY: Let the record reflect  
8 the presence of Joseph Shmulewitz.

9 THE COURT: Good morning.

10 MS. MATTAWAY: He's an intern with the  
11 Bronx District Attorney's office.

12 (Witness approaches witness stand.)

13 COURT OFFICER: Please raise your right  
14 hand, Detective, please.

15 DET. W I N D E L P. S T R A D F O R D,  
16 a witness called on behalf of the People, having  
17 first been duly sworn/affirm, took the stand and  
18 testified as follows:

19 COURT OFFICER: Have a seat. In a loud  
20 and clear voice, please state your name, spell  
21 your last name, give us your shield number and  
22 command for the record.

23 THE WITNESS: Detective Windel P.  
24 Stradford, S-T-R-A-D-F-O-R-D. My shield is 3420.  
25 I'm assigned to the Cold Case Homicide Squad.

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1 THE COURT: Good morning, Detective.

2 THE WITNESS: Good morning.

3 MR. BRUNO: May I address the court in  
4 a colloquy matter before we start? I do want to  
5 request daily copy. As your Honor knows, this is  
6 a --

7 THE COURT: Are you 18B counsel?

8 MR. BRUNO: Yes, I am.

9 THE COURT: Fine, no problem.

10 MR. BRUNO: Thank you.

11 THE COURT: Okay. All right, People.

12 DIRECT EXAMINATION

13 BY MS. MATTAWAY:

14 Q. Good morning, Detective.

15 A. Good morning.

16 Q. How long have you been a member of the New  
17 York City Police Department?

18 A. Two three-and-a-half years.

19 Q. How long have you been a detective?

20 A. About 19 years.

21 Q. And what are your duties at the Cold Case  
22 Squad?

23 A. We are tasked with locating persons who are  
24 involved in homicides either they have been identified  
25 or they haven't been identified. Also with



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1 apprehending persons who are identified by the  
2 detective squads where they haven't been able to  
3 locate that person.

4 Q. And how long have you been doing that?

5 A. I've been in Cold Case since January '95.

6 Q. Prior to that, what did you do for the NYPD?

7 A. I was assigned to the robbery squad. I was  
8 in the police commissioner's investigation squad. I  
9 was in special investigations, warrant squad and  
10 street crime.

11 Q. Okay. Have you had the occasion in your  
12 career to put together photo arrays and have shown  
13 them to witnesses?

14 A. Yes.

15 Q. Are you able to estimate for us about how  
16 many such photo arrays that you've conducted in your  
17 career?

18 A. Over a hundred.

19 Q. Okay. And have you also had the situation  
20 where you had a witness make a single photo  
21 identification?

22 A. Yes.

23 Q. Okay. And have you also conducted lineups  
24 in your career?

25 A. Yes.

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1 Q. All right. And I would like to draw your  
2 attention at this time to December 1999. Did there  
3 come a time when you were assigned to the case of  
4 People against Ricardo Jiminez?

5 A. Yes, sir.

6 Q. And where were you assigned at that time?

7 A. I was in the Cold Case Squad --

8 Q. Okay.

9 A. -- special projects.

10 Q. All right. Can you briefly tell us what  
11 kind of case it was?

12 A. It was a homicide that occurred in the  
13 Whitestone Movie Theater in the Bronx.

14 THE COURT: Whitestone what?

15 THE WITNESS: Movie theater.

16 THE COURT: Okay.

17 THE WITNESS: In 1989.

18 Q. Do you remember the date?

19 A. I believe it was July 3rd.

20 THE COURT: 19 --

21 THE WITNESS: -- 89.

22 Q. And did you have information when you  
23 inherited this cold case as to who the possible  
24 eyewitnesses were?

25 A. Not initially, no.

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1 Q. You started to investigate them?

2 A. Yes.

3 Q. Okay. In terms of the identification  
4 procedures that have already been conducted in the  
5 case before you took it over, were you aware if any  
6 identification procedures had already occurred?

7 A. Yes.

8 Q. Okay. What identification procedures, if  
9 any, were you aware that had occurred before you took  
10 over the case?

11 A. Detective Serrano. I don't know who the  
12 other Detective was that was with him. I believe it  
13 was done in the Four Eight Precinct in the catch unit  
14 with one of the persons involved that was at the movie  
15 theater that night.

16 Q. What was that eyewitness' name?

17 A. Esco Blaylock.

18 THE COURT: What is the name? I'm  
19 sorry.

20 THE WITNESS: Esco Blaylock.

21 THE COURT: Okay.

22 Q. Now, did you know who Detective Serrano was?

23 A. He was assigned to the 45 Precinct.

24 Q. But in terms of this case, what was his  
25 importance of the case?

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1 A. He was the case detective.

2 Q. All right. By the time you got it in '99,  
3 do you know if he was still working?

4 A. No, he's retired.

5 Q. Okay. And this Esco Blaylock, did you have  
6 occasion to meet with him subsequently?

7 A. Yes.

8 Q. All right. Did Esco Blaylock prior to  
9 making the identification on this PIMS machine --

10 THE COURT: I thought he didn't make  
11 it. Wasn't this the negative?

12 MS. MATTAWAY: No, ma'am.

13 THE COURT: Oh, I'm sorry. I'm sorry,  
14 People.

15 Q. Let me go back then. In fact --

16 THE COURT: He learned the PIMS  
17 identification that had been done by Detective  
18 Serrano with Blaylock?

19 MS. MATTAWAY: Yes.

20 THE COURT: Okay. And that was when?

21 Q. What was the date of the identification?

22 A. I don't remember the exact date. I would  
23 have to look to see.

24 Q. Do you need something to refresh your  
25 recollection?

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1 A. Yes.

2 Q. Okay.

3 A. July 11, 1989.

4 Q. All right. And did you refer to a specific  
5 piece of paper to get that information?

6 A. Detective Serrano's DD5.

7 Q. Can you tell us the number so the defense  
8 counsel knows which one we're talking about?

9 MR. BRUNO: Thirty-five.

10 MS. MATTAWAY: You know it?

11 MR. BRUNO: Yes.

12 THE COURT: Do you have it, counsel?

13 A. It was DD5 number 35.

14 Q. Okay. And what does it say about the  
15 identification back then in '89?

16 A. That Mr. Blaylock and another person were  
17 present at the catch unit at 2030 hours to view photos  
18 at the catch unit.

19 Q. And can you briefly explain what the PIMS  
20 identification procedure would be?

21 A. I can't tell you exactly what the one in the  
22 Four Eight is like because I've never used that one.

23 Q. Okay.

24 A. But basically what it is it's a machine  
25 where they can get the photos. They just go through a

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1 series of photos that's where a description of a  
2 person is given and they can more or less put in  
3 parameters to have those photos shown if it's male  
4 black or a male Hispanic, you know, the hair,  
5 different things like that. If they have a name, they  
6 can do it by a name search. If they have another  
7 descriptor of that person, they could put that in  
8 there. Also with that person's photo in the machine,  
9 it will come up at some point and then the individuals  
10 that are brought there tell the detective whether this  
11 is the person or not.

12 Q. Okay.

13 THE COURT: This is on the computer.  
14 They are done by a computer?

15 THE WITNESS: I've never been in that  
16 catch unit. Some are on a computer. Some are on  
17 I think it's the slide machines.

18 Q. Okay. In any event, Detective, is there an  
19 indication from Detective Serrano why it was Esco  
20 Blaylock who was viewing these photographs?

21 A. Esco Blaylock had indicated to Detective  
22 Serrano that he knew who the shooter was from the  
23 Whitestone Movie Theater.

24 Q. What was the basis of his knowledge?

25 A. He knew the person from the neighborhood.

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1 He told Detective Serrano that the person who had done  
2 the shooting he knew him as Leon and that's how he was  
3 introduced to him as and he went on to tell the  
4 detective how he knew him. I guess the Detective  
5 asked him. He told him.

6 MR. BRUNO: Your Honor, I know there's  
7 flexibility on hearsay at the hearing but there  
8 might have been flexibility for Detective Serrano  
9 to quote that, not for this man to quote it from  
10 a file.

11 THE COURT: No. I think, counsel,  
12 you're allowed even two layers or even more  
13 layers of hearsay at the suppression hearing.  
14 That's my understanding of the law.

15 MR. BRUNO: And also noting there was  
16 talk about a file that is at that point 10 or 12  
17 or 13 years old.

18 THE COURT: Well, that's an argument  
19 that really goes to the weight but it's  
20 admissible, counsel. Go ahead. You were saying  
21 Mr. Leon.

22 A. I'm sorry. He knew him. He was introduced  
23 to him as Leon by a friend of his I believe his name  
24 is John but he had given certain descriptions about  
25 this person Leon as far as his gold tooth, how he wore

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1 his hair. The fact that he drove --

2 THE COURT: Gold tooth, hair, yes.

3 THE WITNESS: Gold tooth.

4 Q. Tell me about the tooth?

5 A. There was a removable tooth, a gold cap,  
6 front, the one you could take out of your mouth and  
7 put in.

8 Q. And had the witness seen him take the tooth  
9 out?

10 A. He indicated yes. He knew the fact that  
11 Leon drove a Maxima and that he also had a white car.  
12 He knew what street he lived on Boynton Avenue.

13 THE COURT: Boynton.

14 THE WITNESS: Boynton, yes, ma'am.

15 A. I don't remember the address that he gave  
16 without looking at it. He also knew a girl by the  
17 name of Sharon who indicated that Leon used to go out  
18 with. And that person was also present at the catch  
19 unit: Sharon.

20 He knew enough things about Leon from  
21 the neighborhood. He had observed him fights. He  
22 knew that he put on Jamaican accents when he wanted to  
23 when he was speaking to people and the fact that he  
24 indicated that Leon sold drugs.

25 Q. And let me fast forward right now to a



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1 future time in 2006. Did you talk to Esco Blaylock a  
2 date since that and you reconfirmed all this  
3 information?

4 A. Yes.

5 Q. Okay.

6 MR. BRUNO: Objection to the leading.

7 THE COURT: Overruled.

8 Q. Now, let me go back to 1989 for a minute,  
9 okay? You said that this took place in the catch  
10 unit?

11 A. Catch, yes.

12 Q. Okay. And there was a female named Sharon  
13 present?

14 A. Yes.

15 Q. All right. Is there any indication from  
16 Detective Serrano's folder that she made any kind of  
17 photographic identification?

18 A. I believe so, yes.

19 Q. Okay.

20 A. I have to refer to it to know for sure.

21 Q. You need to refresh your recollection?

22 THE COURT: Is there something to which  
23 you can direct his attention?

24 MS. MATTAWAY: Yes, DD5 35.

25 THE WITNESS: Yes.

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1 Q. Tell us about Sharon's identification if  
2 any?

3 A. She was shown photos along with -- I don't  
4 believe they were together. It's not done that way.

5 MR. BRUNO: Objection, your Honor.

6 THE COURT: You mean it's not the  
7 custom to do it that way? Is that what you're  
8 saying?

9 THE WITNESS: Correct.

10 THE COURT: You don't know what  
11 happened in this particular case?

12 THE WITNESS: No.

13 THE COURT: Overruled.

14 A. She picked out a photo of Manual Jiminez,  
15 who is Mr. Jiminez's brother and she explained to the  
16 detectives that he is the brother of the person that's  
17 known as Leon and then they went on to identify  
18 Ricardo Jiminez.

19 Q. Tell me about that.

20 A. I'm not sure how they did it but there's an  
21 indication that when they got to Ricardo Jiminez Esco  
22 Blaylock identified him as the person who he knew as  
23 Leon from the movie theater.

24 Q. This person Sharon?

25 A. Yes.

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1 Q. Who you just told us actual picked out a  
2 photo of the defendant's brother?

3 A. Yes.

4 Q. But identified him as the brother. Did she  
5 ever pick out a photo of the shooter?

6 A. Yes.

7 Q. Okay. Did she say that she knew him as Leon  
8 or some other name?

9 A. She knew him as Ricky.

10 Q. Is there an indication however that both  
11 Mr. Blaylock and Sharon had picked out the same photo?

12 A. Yes.

13 THE COURT: Now, People, Sharon, as I  
14 understand it, is not the subject of this  
15 hearing?

16 MS. MATTAWAY: No.

17 MR. BRUNO: I would object to any  
18 testimony concerning Sharon.

19 THE COURT: Is it relevant?

20 MS. MATTAWAY: No. It's just in the  
21 interest of fair disclosure that Tass and the  
22 identification procedure done in 1989 on the same  
23 date as -- the same time as Esco Blaylock. Both  
24 of these witnesses apparently.-

25 THE COURT: Okay. That's the only

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1 purpose for which withdraw eliciting it, People?

2 MS. MATTAWAY: Yes.

3 THE COURT: I'm going to allow it then.

4 MS. MATTAWAY: Okay, thank you.

5 Q. All right. You got the case in 1999,  
6 correct, Detective?

7 A. Yes.

8 Q. All right. At this time, I like to direct  
9 your attention to January 16, 2001. Did you conduct  
10 an identification procedure, you personally conduct an  
11 identification procedure in this case?

12 A. Yes.

13 Q. Tell us about that?

14 A. I was at the correctional facility in New  
15 York State with a person that we know as AO, initial  
16 A, initial O.

17 Q. Okay.

18 A. Who had information on the shooting at the  
19 Whitestone Movie Theater.

20 Q. Without telling us the subject of this  
21 information, tell us about the identification  
22 procedure?

23 A. AO was shown photographic profile display  
24 and he picked out Mr. Jiminez as the person who he  
25 observed shoot the victim at the movie theater.

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1 Q. By the way, for the record, can you put the  
2 victim's name on the record so we know?

3 A. I'm sorry Sean Worrell, W-O-R-R-E-L-L.

4 Q. Detective, do you have the original photo  
5 array that you showed on January 16th, 2001 here with  
6 you in court today?

7 A. Yes.

8 Q. Can you please produce it?

9 THE COURT: The People is AO, the  
10 person who you previously identified as Andrew  
11 O'Brien?

12 MS. MATTAWAY: Yes, ma'am. I'd like to  
13 have this marked as People's 1 please.

14 THE COURT: Counsel, you're not going  
15 to object to its admission, are you?

16 MR. BRUNO: Of the photos?

17 THE COURT: Yes.

18 MR. BRUNO: May I see it first?

19 THE COURT: Sure.

20 MR. BRUNO: I have no objection to it  
21 being received in evidence.

22 MS. MATTAWAY: I offer it into  
23 evidence.

24 (People's Exhibit 1, photo array was  
25 marked and received into evidence.)

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1 COURT OFFICER: So marked People's 1 in  
2 evidence --

3 MS. MATTAWAY: Thank you show it to the  
4 witness.

5 Q. Detective Stradford, that is the actual  
6 array that you showed Andrew O'Brien?

7 A. Yes.

8 Q. And which photograph was the defendant?

9 A. Number two.

10 Q. And which photograph did Mr. O'Brien  
11 identify?

12 A. I'm sorry.

13 Q. Which photograph did Mr. O'Brien pick out?

14 A. Number two.

15 Q. And you had him sign that array?

16 A. He initialed it, yes.

17 Q. He initialed it, okay.

18 THE COURT: Can I see it please. Thank  
19 you.

20 Q. Now, I'd like to turn your attention to  
21 April 19, 2006. Did you conduct an identification  
22 procedure in connection with this case on that date?

23 A. Yes.

24 Q. Tell us about that. Do you have that  
25 original array with you?

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1           A.     Yes.   I would have to look to see because I  
2     don't remember who it was.

3           Q.     Okay.

4                   THE COURT:   Do you have ti, Detective?

5                   THE WITNESS:   Yes, ma'am.

6           Q.     Okay.   I'd like to have that marked as  
7     People's 2.

8                   THE COURT:   Let's show it to counsel to  
9     see if he'll consent to its admission.

10           MR. BRUNO:   No objection.

11                   THE COURT:   It comes in as People's 2  
12     in evidence.   Let's mark it.

13                               (People's Exhibit 2, photo array, was  
14     marked and received into evidence.)

15                   COURT OFFICER:   So marked People's 2 in  
16     evidence.

17           Q.     Please tell us the circumstances of showing  
18     this photo array?

19           A.     I was with -- I had met Esco Blaylock on  
20     that date in Manhattan myself and another detective  
21     and I told him what we were there for and I provided  
22     him with the photo display.   I asked him if he  
23     recognized anyone there and he told me that he did and  
24     I asked him which one it was.   He told me number two.  
25     And I asked him where did he recognize him from and he

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1 told me that was the guy that he knew as Leon that had  
2 shot the person in the movie theater back in July 3rd,  
3 '89.

4 Q. Okay. Additionally, did you also show him a  
5 single photo on this date?

6 A. Yes.

7 Q. Do you have that photo?

8 A. Yes.

9 MS. MATTAWAY: I'd like to have that  
10 marked as People's 3.

11 MR. BRUNO: With no objection.

12 THE COURT: All right. People's 3 in  
13 evidence.

14 (People's Exhibit 3, photo array, was  
15 marked and received into evidence.)

16 COURT OFFICER: So marked People's 3 in  
17 evidence.

18 Q. Detective Stradford, can you tell us why you  
19 had him identify a single photo as well as a photo  
20 array on April 19, 2006.

21 A. I actually didn't have him identify the  
22 single photo. We did the photo array first and just  
23 as a procedure I asked him to sign the individual  
24 photo to show that he had identified the photo  
25 array --



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1 Q. Okay.

2 A. -- the same day.

3 Q. Now, is the photo array that you showed Esco  
4 Blaylock the same or similar to the same photo array  
5 that you had shown Mr. O'Brien in 2001?

6 A. It's in the same format but there are  
7 different people in the photo array.

8 Q. Okay.

9 A. The only common person in the photo array is  
10 Mr. Jiminez.

11 Q. Okay. You put both photo arrays together?

12 A. Yes.

13 Q. And when you also met with Mr. Blaylock on  
14 April 2000 -- April 19, 2006, did you also have a  
15 conversation with him as to his basis of knowledge for  
16 how he knew Leon the person who was picked out in the  
17 photo array?

18 A. Yes, sir.

19 Q. And what did he tell you in 2006?

20 A. That he had known him from the neighborhood,  
21 where apparently Mr. Blaylock lived in the area where  
22 Mr. Jiminez lived. He had explained to me that he was  
23 introduced to him by a common friend that he thought  
24 that at one time that they were both seeing the same  
25 girl but it turned out not to be that.

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1 THE COURT: Who is they, he and his  
2 friend.

3 THE WITNESS: Mr. Blaylock and  
4 Mr. Jiminez.

5 A. But it turned out not to be. And he  
6 explained to me, you know, that, you know, he knew  
7 what kind of car he had and, you know, that he had  
8 dropped out of school. I didn't ask him if knew he  
9 dropped out of school.

10 Q. He knew the defendant?

11 A. I'm sorry. He knew Mr. Jiminez had dropped  
12 out of school. I didn't ask him how he knew and, you  
13 know, just moved on. He just said he hadn't seen him  
14 in a while but he knew that, you know, he said he's a  
15 big tough guy. He's always in Monroe. I think it's  
16 Monroe Houses, been in fights and stuff.

17 Q. Did he indicate how many times he had seen  
18 him fight?

19 A. I don't recall.

20 Q. Okay. Did he indicate to you how often he  
21 used to Mr. Jiminez back then?

22 A. Every week.

23 THE COURT: Every week?

24 THE WITNESS: Yes.

25 Q. And over what period of years is this?

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1           A.     During the time of before the shooting he  
2 saw him quite regularly in the neighborhood and then  
3 maybe sometime afterwards in the '90 he didn't. I  
4 asked him if he seen him, you know, since then and he  
5 told me no.

6           Q.     Okay. And let me direct your attention to  
7 May 17, 2006. Did you conduct a photographic  
8 identification procedure on that date?

9           A.     Yes.

10          Q.     Please tell us about that?

11          A.     I was with a gentleman by the name of  
12 Christopher Cordero.

13          Q.     Okay.

14          A.     Mr. Cordero was also a person that worked in  
15 the movie theater that night. I believe he was a  
16 concession stand worker he had spoken to the detective  
17 prior in 1989 regarding this and he gave them a  
18 statement that he knew who the shooter was of Sean  
19 Worrell.

20                       I met Mr. Cordero on Metropolitan  
21 Avenue that was in the street. He was nervous and he  
22 wouldn't allow us to come into his house, so he --  
23 once he knew who we were we met him in the street, he  
24 got into the car with myself, Detective Thomas and  
25 Detective Santiago. I asked him to relate to me what

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1 had happened in the movie theater.

2 Q. I'm only asking you about the identification  
3 procedure at this time, Detective.

4 A. Okay.

5 Q. Okay.

6 A. He -- I asked him would he view a photo  
7 display if he recognized anyone in there would he tell  
8 me, that he told me that he would. I presented him  
9 with the photo display and he picked out -- he picked  
10 out Mr. Jiminez. I just don't recall what position he  
11 was in at that time.

12 Q. Do you have that original photo array that  
13 you showed Mr. Cordero on May 17, 2006 here with you  
14 in court today?

15 A. Yes.

16 Q. Please produce it.

17 THE COURT: Do you want to show it to  
18 counsel?

19 MS. MATTAWAY: I'd like to have that  
20 marked as People's 4.

21 MR. BRUNO: I have no objection, your  
22 Honor.

23 THE COURT: Then it is People's 4 in  
24 evidence.

25 (People's Exhibit 4, photo array, was

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1 marked and received into evidence.)

2 COURT OFFICER: So marked People's 4 in  
3 evidence.

4 Q. Can you tell us, Detective, which photograph  
5 Mr. Jiminez was in People's 4?

6 A. Number two.

7 Q. What is that? Is that the photograph  
8 Mr. Cordero identified?

9 A. Yes.

10 Q. Okay. Did you conduct any other  
11 identification procedure in this case?

12 A. No.

13 Q. Was there another identification procedure  
14 conducted with a brother officer or sister officer in  
15 this case?

16 A. Yes.

17 Q. Okay. And did that result in a positive  
18 identification?

19 A. No.

20 Q. And, for the record, which witness did that  
21 pertain to?

22 A. Robert Kane.

23 MS. MATTAWAY: Thank you. I have  
24 nothing further for this witness.

25 (Continued on the next page ...)

1 THE COURT: Cross.

2 MR. BRUNO: I'll ask for one moment.

3 THE COURT: Sure.

4 (Short Pause.)

5 CROSS-EXAMINATION

6 BY MR. BRUNO:

7 Q. Good morning, Detective.

8 A. Good morning.

9 Q. Now, you indicated that you were assigned  
10 this case I believe it was July of 1999; is that  
11 correct?

12 A. I didn't say July, I said '99, some time in  
13 '99.

14 Q. Forgive me. That's right, you said you  
15 were assigned December of '99?

16 A. Right.

17 Q. The incident was 7/3/99. Forgive me. You  
18 were assigned December of '99.

19 I'm not sure how it works, was there any  
20 particular reason why you were first assigned in '99?

21 A. The way it works in our unit, we get  
22 communications from the Mayor, the police  
23 commissioner, chief of detectives to our e-mail  
24 address. People write letters, they send it directly  
25 to our unit or we get communications from other law

1 enforcement agencies regarding cases which were not  
2 solved or needed to be investigated. This was that type  
3 of case. It was information given to us from the DEA,  
4 Drug Enforcement Agency, and we followed -- I followed  
5 up on it.

6 Q. So, in other words, the case lay dormant  
7 from July '89 to December of 1999, correct?

8 A. I don't know what the detectives in the 45  
9 Precinct were doing. I can only tell you what I did  
10 in '99.

11 Q. Well, except that with reference to a  
12 number of questions, you said that you reviewed or  
13 made reference to DD5s from prior detectives, correct?

14 A. Yes.

15 Q. So can we safely assume, you're a veteran  
16 of 23 some odd years, can I assume you totally  
17 reviewed the folder?

18 A. Yes.

19 Q. And am I correct that basically nothing  
20 further occurred in terms of police investigation  
21 shall we say after 1990?

22 A. I couldn't tell you that. I know the last  
23 DD5 is dated -- is Number 40. If there was anything  
24 else done -- initially there's papers in the folder  
25 that could be dated. I didn't pay attention to the

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1 date, but I do know that the last DD5 was Number 40,  
2 and I'm not aware of what the date is on there.

3 Q. Sir, again no hard feelings, you sound very  
4 evasive.

5 MS. MATTAWAY: I object.

6 THE COURT: Sustained.

7 Q. You implied that you pretty much thoroughly  
8 reviewed the folder when you're actually assigned as a  
9 cold case manager?

10 A. Yes.

11 Q. Have you done that, totally review? Are  
12 you now stating that the last activity shown looking  
13 at police paperwork would be DD5 Number 40?

14 A. The last DD5 is Number 40. I can only  
15 attest to what is in DD5 Number 40.

16 Q. Okay.

17 A. I can't tell you if any other detectives  
18 have touched that folder before, after forty or before  
19 I got it.

20 Q. Okay. Let's do it that way. DD5 Number  
21 40, reflects what date of police activity?

22 A. July 17th, 1989.

23 Q. Okay. So the last bit of police activity  
24 reflected on the last DD5 is some 14 days after the  
25 murder, correct?



1 A. Yes.

2 Q. Now, consistent with how you testified, is  
3 it fair to say that there is no -- until you get  
4 involved, no further police paperwork reflecting  
5 activity after 7/17/89?

6 MS. MATTAWAY: I object.

7 THE COURT: If he knows.

8 Is there anything else in the  
9 paperwork?

10 THE WITNESS: Not in this folder, no.

11 Q. Okay. That's where I'm going. If there  
12 were other police activity, would it not have to be an  
13 addendum to that folder?

14 A. No.

15 Q. No?

16 A. No.

17 Q. Okay. If there were other police activity  
18 which resulted in a companion folder, would that not  
19 be forwarded to the cold case squad?

20 A. Only if I knew about it. Only if they knew  
21 the case had been transferred to me. I understand  
22 what you're asking me. Only if they knew if the case  
23 had been transferred.

24 Q. Sir, this was a senseless murder over a bag  
25 of popcorn.

1 MS. MATTAWAY: Objection.

2 THE COURT: Sustained as to the  
3 characterization.

4 Q. This was a murder?

5 A. Yes.

6 Q. A young man in the bloom of his life was  
7 killed, correct?

8 MS. MATTAWAY: I object.

9 THE COURT: I'll allow that.

10 Q. Correct?

11 A. Someone was murdered, yes.

12 Q. And, parenthetically, at the time, it got  
13 an awful lot of press coverage; am I correct?

14 A. Yes.

15 Q. Are you now conveying to us, the Court, the  
16 D.A., that if there were some companion folder on a  
17 case that was forwarded to the cold case squad, they  
18 wouldn't think of forwarding it unless you -- what do  
19 you do, send a memo to the thirty-some-thousand cops  
20 in the City and say, hello, I've been assigned, send  
21 me a paper; is that what happens?

22 A. No, we don't.

23 Q. I'm sorry. I'm being facetious, but you  
24 kind of elicit it.

25 As a cold case detective, do not the powers that

1 be in the police department forward you whatever  
2 materials were gathered during the investigation?

3 A. Only if requested.

4 Q. You're telling us that -- by the way, this  
5 was initially -- this was a murder in the 45 Precinct,  
6 correct?

7 A. Yes.

8 Q. So just to make one hypothetical question  
9 and I'll go on, if in 1992 a detective in the 45  
10 uncovered a potential witness and interviewed him or  
11 her, that would not be reflected in materials  
12 forwarded to you?

13 A. If the detective like you said did that,  
14 that detective would find out where that case folder  
15 is. If the detective knows that it's a homicide or an  
16 incident that occurred in a particular precinct, that  
17 is the precinct in which he will contact. No, he will  
18 not contact the cold case squad, he will contact the  
19 precinct of concern. The detectives in the precinct  
20 of concern will either say, no, we don't have the  
21 folder any more and they will notify that detective  
22 where the folder has gone.

23 Q. But that wasn't the question. In my  
24 hypothetical -- this murder occurred in '89. In my  
25 hypothetical, for whatever reason a detective in the

1 45, the precinct that has the case, meets some random  
2 witness who has a tip. They do an interview, they now  
3 have located another potential witness.

4 Would not that 1992 detective's work either be  
5 placed in the same folder or would not the companion  
6 folder then be referenced to that folder?

7 A. If that happened in 1992 in the 45 Precinct  
8 and it was the detective from the 45, it would have  
9 been placed in the folder that's in the 45 Precinct.

10 Q. Okay.

11 THE COURT: Which is not the same as  
12 the folder you're referring to?

13 THE WITNESS: No, it would have been  
14 this folder.

15 THE COURT: So it is the same?

16 THE WITNESS: Yes.

17 THE COURT: That's the folder you  
18 received from the 45?

19 THE WITNESS: Yes.

20 THE COURT: Okay.

21 Q. So in responding to my series of questions,  
22 with all due respect, your responses still leave a  
23 loose end, I believe.

24 When you say that, no, if there were any  
25 companion folders I would only get it if I requested

1 it, does that mean if some work were done -- in this  
2 scenario, if some work were done beyond the 45th  
3 Precinct, is that what you're saying in essence?

4 A. That I knew about, yes.

5 Q. Whether you knew or not?

6 A. If I knew about it, I can make a request  
7 for it. If I don't know about it, I can't request it.

8 Q. And then that possibly useful information  
9 just falls by the wayside?

10 MS. MATTAWAY: I object to this  
11 "possible's".

12 THE COURT: Sustained.

13 MR. BRUNO: May we approach, your  
14 Honor.

15 THE COURT: Sure.

16 (Whereupon, there is a discussion held  
17 off the record, at the side bar, among the  
18 Court, Mr. Bruno and Assistant District Attorney  
19 Mattaway.)

20 THE COURT: Let me see if I can cover  
21 this.

22 Detective, are you personally aware of  
23 any other material relevant to this case that's  
24 not included in that folder that you have?

25 THE WITNESS: From this 1989 folder,

1 the only other information that is not from New  
2 York City Police Department is from the Drug  
3 Enforcement Agency and the FBI.

4 THE COURT: Other than that, you're  
5 not personally aware of any other information  
6 relevant to this case that's not already in that  
7 folder?

8 THE WITNESS: No.

9 THE COURT: Okay.

10 Q. Sir, to further clarify, let me pursue one  
11 other hypothetical. I went through the hypothetical  
12 involving a detective in the 45th Precinct.  
13 Hypothetical detective. What I think your answers  
14 raise now are the following: What if -- for the sake  
15 of argument, a detective in the 49 over on Pelham  
16 Parkway comes across a potential witness. Do you know  
17 back in '89, I witnessed this murder and it pertains  
18 to this murder case. That 49th Precinct Detective  
19 Squad man, would he now forward his materials to this  
20 45th Precinct folder before us or would the 49th  
21 Precinct detective create a companion folder?

22 A. He would notify the 45 Precinct detectives  
23 and let them know what he had. He had to do some  
24 paperwork on that, information he had, and it would  
25 get forwarded to the 45 Precinct. He would not start

1 a folder on it.

2 Q. And then the 45th Precinct detective who  
3 got that memo from the 49 man ended up creating a DD5  
4 and that would end up in the same folder that's before  
5 us, correct?

6 A. He wouldn't do a DD5.

7 Q. Whatever he would do.

8 A. He wouldn't do a DD5. He would take the  
9 information got from the 49 detective and add it to  
10 the folder.

11 Q. So that ultimately this additional work  
12 that was done on referral by a 45th Precinct detective  
13 would end up in the same folder that's before us?

14 A. You said from the 49.

15 THE COURT: You did.

16 Q. I'm sorry, the information forwarded by the  
17 49 man would then result in the 45th Precinct  
18 detective following up, correct?

19 A. All depending what the information is. It  
20 might not be worth following up.

21 MS. MATTAWAY: I object. It's beyond  
22 the scope.

23 THE COURT: We're getting way way  
24 beyond where we're supposed to be in the  
25 hearing, counsel, as we discussed.

1 Q. If you're as evasive at the trial, you'll  
2 impress the jury.

3 THE COURT: Come on.

4 Q. Am I correct -- really, we're going round  
5 and round in the 14 minutes. The bottom line becomes  
6 any work that was done in this case by a New York City  
7 cop or detective is in the folder before us; am I  
8 correct?

9 MS. MATTAWAY: I object.

10 THE COURT: Sustained.

11 MS. MATTAWAY: Beyond the scope of the  
12 hearing.

13 THE COURT: That's not what he said.

14 Q. Is that the distinction you're trying to  
15 make, there may have been work done by Feds and DEA;  
16 is that correct?

17 MS. MATTAWAY: Objection.

18 THE COURT: Sustained.

19 Q. You did say that a moment ago, didn't you?

20 MS. MATTAWAY: I object.

21 THE COURT: Counsel, you've exhausted  
22 this line of inquiry. We'll make a record of  
23 our bench conference.

24 MR. BRUNO: Fine.

25 Q. Was there work -- did you say a moment ago



1 there was some kind of investigative work or reporting  
2 done by federal agents?

3 MS. MATTAWAY: I object.

4 MR. BRUNO: He testified to that.

5 THE COURT: I'll allow it.

6 A. Yes.

7 Q. Okay. What was the nature of that?

8 MS. MATTAWAY: I object.

9 THE COURT: Beyond the scope of the  
10 hearing, counsel.

11 Again, if you're going to be making an  
12 application to delve into the issues you  
13 discussed, you'll have to make it. It's not  
14 relevant to the Wade Hearing.

15 Q. Did you say there was work or some kind of  
16 information forwarded by DEA?

17 MS. MATTAWAY: Objection.

18 THE COURT: I sustained the objection.  
19 Don't reask the question. Let's move on.

20 Q. Did you say that you were led, I believe it  
21 was, to witness O'Brien -- withdrawn.

22 Did you say that you received this cold case  
23 assignment as a result -- I don't know, of some letter  
24 or referral by DEA?

25 A. Yes.

1 Q. In very brief summary, what was the nature  
2 of that letter or referral?

3 MS. MATTAWAY: I object.

4 THE COURT: Sustained.

5 Q. What led you --

6 THE COURT: Counsel, don't just reask  
7 the question.

8 MR. BRUNO: I'm not.

9 Q. What led you to make contact with the  
10 witness, Mr. O'Brien?

11 MS. MATTAWAY: I object.

12 THE COURT: Counsel, this is again  
13 beyond the scope of the Wade. This is not a  
14 Gethers, it's not a Mapp, it's not a Dunaway,  
15 just a Wade.

16 Q. What led you to revisit the witness Esco  
17 Blaylock? What led you to revisit Esco Blaylock?

18 MS. MATTAWAY: I object.

19 THE COURT: Sustained. Counsel, the  
20 only issue in this case is the suggestiveness of  
21 the identification, that's it.

22 Q. Now, you indicated that as reflected in the  
23 initial 45th Precinct folder, that Mr. Blaylock did a  
24 photo identification back in 1989, based upon a PIMS  
25 identification; am I correct?

1 A. Yes.

2 Q. Am I correct PIMS is some kind of  
3 computerized -- it's a machine as opposed to a book,  
4 correct?

5 A. Yes.

6 Q. And that one electronically flips through  
7 basically mug shots on this PIMS machine; am I  
8 correct?

9 A. That's how -- yes.

10 Q. Am I correct that the PIMS machine system  
11 was not in use by the police department in 1989?

12 A. I was not available or aware of what went  
13 on in the 48, as I indicated before. I told you I  
14 didn't know, I've never been before so I couldn't  
15 answer how it worked.

16 Q. Now, I'm saying as a general -- withdrawn.  
17 Didn't you testify that back in 1989, that these  
18 two witnesses, Sharon as well as Esco -- these two  
19 witnesses went to the 48 to view the PIMS machine; am  
20 I correct?

21 A. They went to the CATCH Unit to view PIMS,  
22 yes.

23 MR. BRUNO: Would your Honor take  
24 judicial notice this man testified on direct  
25 they went to view the PIMS.

1 THE COURT: I think he acknowledged.  
2 He just acknowledged that, counsel.

3 MR. BRUNO: No, he said CATCH Unit.

4 THE COURT: CATCH Unit of the 48  
5 Precinct is that what you meant?

6 THE WITNESS: Yes.

7 Q. Did you testify on direct that not only  
8 Esco Blaylock, but Sharon went to the 48th Precinct  
9 and viewed the PIMS machine?

10 A. I believe that's what I said, yes.

11 Q. Yes. Am I correct that the PIMS machine  
12 was not in use by the NYPD in the summer of 1989?

13 A. I don't know when it came into existence.

14 Q. Sir, wouldn't it have to exist if you  
15 believed they viewed it?

16 MS. MATTAWAY: I'll object.

17 THE COURT: I'll allow that.

18 A. I don't know. You asked me if it was in  
19 effect. I told you I don't know when it came in.

20 Q. All right. You said that you never had to  
21 utilize the PIMS in the 48 Precinct, correct?

22 A. Yes.

23 Q. You've utilized PIMS?

24 A. Yes.

25 Q. When did you first utilize PIMS as best you

1 recollect?

2 A. When I was in the robbery squad.

3 Q. How far back?

4 A. 1989, 1990, '91, '92.

5 Q. So you're testifying you've used PIMS as  
6 far back as '89?

7 A. I can remember that, yes.

8 Q. And what precinct was that robbery unit?

9 A. When I was in the robbery squad, assigned  
10 the 40th street in patrol, 48th, between Eighth and  
11 Ninth Avenue in Manhattan.

12 Q. In any event, you relied upon -- to refresh  
13 your recollection, you relied upon what had been DD5  
14 Number 35 back in '89, correct?

15 A. Yes.

16 Q. And if you wish to refresh your  
17 recollection again, am I correct there is no reference  
18 whatsoever to the witnesses Esco and Sharon viewing  
19 photos in the PIMS unit, in the PIMS machine; am I  
20 correct?

21 A. Your question, sir?

22 Q. Am I correct there is no reference to the  
23 two witnesses, Esco and Sharon, viewing photos on a  
24 PIMS machine?

25 A. Yes.

1 Q. There is no reference. Am I correct --

2 THE COURT: Is that correct,

3 Detective, there's no reference to the PIMS?

4 THE WITNESS: No ma'am. Yes, that's  
5 correct.

6 Q. Am I correct there is reference to the two  
7 of them viewing photos?

8 A. A file.

9 THE COURT: A file?

10 THE WITNESS: Yes.

11 Q. No, am I correct both Esco and Sharon  
12 viewed files?

13 A. It says a file.

14 MR. BRUNO: Your Honor, I would now  
15 ask that this document be marked as Defendant's  
16 Exhibit A for identification.

17 THE COURT: People, do you have any  
18 objection to this coming in?

19 MS. MATTAWAY: No.

20 THE COURT: Let's put it in evidence.

21 (Whereupon, the item previously  
22 referred to is received and marked Defendant's  
23 Exhibit Number A in evidence.)

24 THE COURT: This is DD5 35.

25 Q. Sir, I now ask you to take what's been

1 marked Exhibit A and start reading the second  
2 paragraph of the body of it, you know, of the report  
3 section. It starts with "both". Would you mind  
4 reading it out loud.

5 A. You need me to?

6 Q. That's what I asked.

7 THE COURT: It's in evidence. Why  
8 don't I read it.

9 MR. BRUNO: That would be great, I ask  
10 that your Honor read the second and third  
11 paragraphs.

12 THE COURT: Both Esco and Sharon  
13 viewed photos. Sharon Ramproot identified a  
14 photo as that of Manuel Jiminez, indicating that  
15 his brother is Ricky, the person being sought.  
16 A search of the file produced a photograph of  
17 Ricardo Jiminez, M/H DOB 3/30/68. NYSIS  
18 5522945Z. Mr. Esco Blaylock, identified the  
19 photo of Ricardo Jiminez as the shooter of the  
20 case and the person known to him as Leon.  
21 Sharon Ramproot stated she knew this individual  
22 as Ricky.

23 MR. BRUNO: Thank you so much.

24 Q. So, sir, having reviewed that item that's  
25 now in evidence, am I correct that it's first noted

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1 that the two parties viewed photos; am I correct?

2 A. Yes.

3 Q. No reference to PIMS. Am I further correct  
4 that once the woman Sharon identifies a photo of  
5 Manuel, a file is then pulled, a file that pertains to  
6 Ricardo Jiminez?

7 A. It doesn't say a file was pulled, counsel.

8 Q. Okay. A search of the file produced a -- a  
9 search of the files produced a photograph of Ricardo  
10 Jiminez, correct? Correct?

11 A. Yes.

12 Q. And as a result of that, going on this  
13 report, apparently Esco then identifies a single photo  
14 that had come from the file; am I correct?

15 A. He identified Ricardo Jiminez.

16 Q. From the context of the report which you're  
17 relying upon, it would seem that Esco Blaylock  
18 identifies a single photo of Ricardo Jiminez; am I  
19 correct?

20 A. I can only go by what's said there.

21 Q. That's exactly the point.

22 A. It doesn't say single photo, it says he  
23 identified a photo of him. I don't know how many  
24 photos were there. It says files, counselor.

25 Q. Right. A search of the files produced a



1 photograph, single, of Ricardo Jiminez.

2 A. It indicates to me they showed several  
3 photos and then they found his.

4 Q. All right. You know what it's in evidence,  
5 your interpretation doesn't matter. Thank you.

6 Now, you say that you -- in -- withdrawn.

7 Going somewhat chronologically, your next  
8 activity after meeting with Blaylock in January 2001,  
9 you go to a New York State jail to interview Mr.  
10 O'Brien, correct?

11 A. I went to a correctional facility in New  
12 York State.

13 Q. Fine. You went to a New York -- I see.  
14 He's in federal custody. You went to a federal jail  
15 in New York State and you interviewed Mr. O'Brien,  
16 correct?

17 A. That's not what I said, sir.

18 Q. What did you say?

19 A. I said I went to a correctional facility in  
20 the State of New York.

21 Q. Okay. And you interviewed Mr. O'Brien?

22 A. Correct.

23 Q. Okay. Have you any hesitance to say  
24 whether it's state or federal facility?

25 MS. MATTAWAY: I object.

1 THE COURT: Overruled.

2 A. Yes.

3 Q. You have hesitancy?

4 THE COURT: Yes, you do have some  
5 hesitation?

6 THE WITNESS: Yes.

7 THE COURT: Okay.

8 Q. As a result, Mr. O'Brien is shown a photo  
9 array and he picks out a photograph of Mr. Jiminez,  
10 correct?

11 A. Yes.

12 Q. Now, was there any other activity -- as a  
13 detective, any other activity by you between meeting  
14 with Mr. Blaylock and then meeting with Mr. O'Brien  
15 some time later?

16 MS. MATTAWAY: Objection.

17 THE COURT: Sustained.

18 Q. In other words, the first -- the first  
19 break you got in this case was the meeting with Mr.  
20 O'Brien; am I correct?

21 MS. MATTAWAY: Objection.

22 THE COURT: Sustained.

23 Q. Now, when you meet with Mr. Blaylock, that  
24 was April of '06. You say he first identified Mr.  
25 Jiminez from the photo array that's in evidence,

1 correct?

2 A. Yes.

3 Q. And then afterwards you showed him that  
4 frontal and profile photograph of Mr. Jiminez; am I  
5 correct?

6 A. Yes.

7 Q. What was your reasoning in showing it?

8 A. Just for identification purposes, for him  
9 to --

10 Q. For him?

11 A. You want me to answer?

12 Q. Yes, of course.

13 A. For him to sign to show he had been with me  
14 on that date. That is just for my file.

15 Q. But am I correct he had already signed the  
16 photo array?

17 A. The photo array is for court.

18 Q. If that were the case, why didn't you do  
19 the same thing with O'Brien?

20 A. There was no need to.

21 Q. Why?

22 A. Mr. O'Brien -- there was no need to.

23 Q. Okay. If that were the case, why didn't  
24 you do the same thing with Christopher Cordero?

25 A. No need to.

1 Q. But there was a need to with Esco  
2 Blaylock?

3 A. Yes.

4 Q. What was the reason?

5 A. For my file.

6 Q. Well, again, you didn't want a signed  
7 single photograph for your file from O'Brien or from  
8 Cordero?

9 A. I didn't need it.

10 Q. Why?

11 A. I needed it for the file, that's all I can  
12 say.

13 Q. What made this distinction?

14 A. Mr. Blaylock.

15 Q. What was the reason?

16 A. Mr. Blaylock's demeanor concerned -- as far  
17 as Mr. Cordero and Mr. O'Brien.

18 Q. Meaning what, Mr. Blaylock was more  
19 hesitant?

20 A. It was a personal decision.

21 Q. I'm sorry?

22 A. It was a personal decision.

23 Q. On your part?

24 A. On my part, yes.

25 Q. Okay. Now, also on April 19th of '06, your

1 meeting -- withdrawn.

2 As a result of your meeting with Mr. Blaylock on  
3 April 19th of '06, you prepared a report, another DD5;  
4 am I correct?

5 A. Yes.

6 Q. Am I correct, amongst other things you  
7 noted that he acknowledged he had lied back in '89; is  
8 that correct?

9 A. Yes.

10 Q. What did he lie about?

11 MS. MATTAWAY: Objection.

12 THE COURT: Sustained. Beyond the  
13 scope, counsel.

14 Q. In any event, you've indicated today at  
15 this hearing that although he was in error, Mr.  
16 Blaylock thought that he had a girl friend in common  
17 with the defendant back in '89; is that correct?

18 A. Yes.

19 Q. No need to even say it, but do you know who  
20 that girl was? Was a name given?

21 A. No.

22 Q. Okay. And am I correct that as a result of  
23 your investigation, you've concluded that at the time  
24 of the incident, Esco Blaylock was some 15 years of  
25 age?

1 MS. MATTAWAY: I object.

2 THE COURT: This is beyond the scope.

3 Sustained.

4 Q. Am I correct that as a result of your --  
5 withdrawn.

6 MR. BRUNO: You're right, not the  
7 scope.

8 I have nothing further, but I do ask  
9 that this witness be available in this building  
10 today. I have a further motion at the end of  
11 this hearing.

12 THE COURT: Well, counsel, I don't  
13 know why that motion would probably be directed  
14 to me. If it has to do with the Wade, let's do  
15 it now. I'll ask him to step out briefly, but  
16 I'll not keep him around if it has to do with  
17 something you need to apply to Judge Mogulescu  
18 for. Do you want him to step out.

19 (Whereupon, the witness exits the  
20 courtroom.)

21 (Continuing on next page.)  
22  
23  
24  
25

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1 THE COURT: Let's make the record if I  
2 could paraphrase our bench conference that was  
3 not transcribed. First, I asked counsel if he  
4 would like to explore the line of questions  
5 because of his concern about possible missing  
6 Brady, Rosario, Ventimiglia material. He said no  
7 that he was pursuing it because it would have a  
8 bearing on constitutional speedy trial issues.

9 In terms of what information was known  
10 to the police and what accounted for the delay in  
11 the arrest of his client and I indicated that  
12 Judge Mogulescu had already denied the  
13 constitutional speedy trial motion, that if he  
14 wanted to have Judge Mogulescu reconsider that  
15 and possibly order an evidentiary hearing with  
16 respect to that he would have to go back and seek  
17 that with Judge Mogulescu but that the scope of  
18 this hearing was limited to the suggestiveness of  
19 the identification. Is that an accurate  
20 paraphrase of our conversation, counsel?

21 MR. BRUNO: Yes, your Honor. That is a  
22 fair summary.

23 THE COURT: People?

24 MS. MATTAWAY: Yes.

25 THE COURT: So what is it, counsel, you

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1 would want him to be here for today?

2 MR. BRUNO: Well, based upon the  
3 position you've taken, your Honor, respectfully  
4 based upon your position, I would think at the  
5 end of the Wade Hearing, I would then have to go  
6 make an application to Judge Mogulescu to  
7 reconsider his decision on the constitutional  
8 speedy trial issue in that unavoidably this  
9 hearing and my very very recent receipt of  
10 unredacted discovery raises new issues that my  
11 client was prejudiced by the very passage of  
12 time.

13 THE COURT: Counsel, you know that that  
14 application has to be made in writing. The  
15 People have to have the opportunity to respond.  
16 I can't imagine that Judge Mogulescu is going to  
17 instantly render a decision on it. So there's no  
18 need to have this or any point in having the  
19 detective hang around today. There's not going  
20 to be an evidentiary hearing.

21 MR. BRUNO: That's understood, okay.

22 THE COURT: You have nothing for him,  
23 counsel?

24 MR. BRUNO: Nothing further with this  
25 detective. Although -- well, your Honor, yes. I



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1 would respectfully ask that you allow me to  
2 explore the areas I was trying to explore in that  
3 there really is no other forum at which I could  
4 ascertain whether or not the police acted or  
5 failed to act in such a way that my client was  
6 prejudiced by the very passage of time.

7 THE COURT: I'm not going to do that,  
8 counsel. You can get these minutes. You can  
9 make your application to Judge Mogulescu but the  
10 People we're not in a position to respond to  
11 that. That's not within the scope of the  
12 hearings that was sent to me, counsel. So I'm  
13 not going to allow that. But if you have nothing  
14 else, People, did you want to redirect him on  
15 anything?

16 MS. MATTAWAY: Yes.

17 THE COURT: Let's get him back in for  
18 redirect.

19 (Witness resumes witness stand.)

20 THE COURT: All right. You're still  
21 under oath, Detective.

22 Go ahead, People.

23 MS. MATTAWAY: Thank you.

24 REDIRECT EXAMINATION

25 BY MS. MATTAWAY:

DET. STRADFORD - PEOPLE - REDIRECT

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1 Q. Detective Stradford, I just want to briefly  
2 revisit that issue regarding DD5 35 where you  
3 interpreted what had happened with Mr. Blaylock and  
4 Sharon as them viewing on a PIMS machine?

5 A. Yes.

6 Q. Okay. Are you able to explain for the court  
7 why it says that you chose to testify and say they  
8 viewed the photos on a PIMS machine?

9 A. I assumed it was on a PIMS machine.

10 Q. And what words in the indictment DD5 35  
11 which is in evidence that is Exhibit A that led you to  
12 draw that conclusion?

13 A. The sentence that says search of the files  
14 produced a photograph of Ricardo Jiminez.

15 Q. And in terms of your experience and  
16 knowledge as a detective whose done this personally,  
17 is a review of the photographs on a PIMS machine a  
18 search of the files?

19 A. Yes.

20 Q. Okay. Regarding the photo array that you  
21 showed to Mr. O'Brien in 2001, did you ever suggest to  
22 him which photo to pick out?

23 A. No.

24 Q. Regarding the photo array shown so  
25 Mr. Blaylock in 2006, did you ever suggest to him

1    which photo to pick out?

2           A.    No.

3           Q.    Regarding the photo array shown to  
4    Mr. Christopher Cordero also in 2006, did you ever  
5    suggest to him which photo you should pick out?

6           A.    No.

7           Q.    Okay.  When you put the three photo arrays  
8    together that are the subject of this hearing that you  
9    showed to Mr. O'Brien, Mr. Blaylock and Mr. Cordero,  
10   where did you get the other photographs in addition to  
11   the photograph of Mr. Jiminez from 1989?

12          A.    Mr. Jiminez' photos I received from BCI,  
13   from a photographic unit at police headquarters.  The  
14   other photos Cold Case Squad maintains photos.  We  
15   have a photo file in our office and I, you know,  
16   scattered the file to get the photos.

17          Q.    Is there anything about the filler photos  
18   that you used for these arrays when you made them to  
19   show the three witnesses I just mentioned, anything  
20   specific to this case that you were looking for?

21          A.    I don't understand your question.

22          Q.    The filler photos that you put in the arrays  
23   that you showed to Mr. O'Brien, Mr. Blaylock and  
24   Mr. Cordero, respectively were you looking for  
25   anything specific when you chose the filler photos to

DET. STRADFORD - PEOPLE - REDIRECT

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1 go around the photograph of Mr. Jiminez?

2 A. Similar likeness to Mr. Jiminez, his  
3 appearance, his hair, facial hair, hair in his head as  
4 best I could.

5 Q. And also so the record is clear on this  
6 issue, was the photograph that you used of Mr. Jiminez  
7 in all three photographs the same photograph?

8 A. Yes.

9 Q. And was that photograph a photograph of the  
10 way Mr. Jiminez appeared in 1989 or a way that  
11 Mr. Jiminez appeared in some other year?

12 A. It's the photograph that I used, the  
13 photograph of Mr. Jiminez from 1989. I don't know  
14 what he looked like at the time but that's the  
15 photograph that it's from 1989.

16 MS. MATTAWAY: I thank you. I have  
17 nothing further.

18 THE COURT: Any recross?

19 MR. BRUNO: Yes.

20 RECROSS EXAMINATION

21 BY MR. BRUNO:

22 Q. You were asked about the so-called filler  
23 photographs for each of the photo arrays, am I  
24 correct, that all the fillers you used were male  
25 Hispanics of about the age 20, give or take?

1           A.     I'm not certain of their ethnic background.  
2     I only picked photographs of people of similar  
3     appearance.

4           Q.     Well, am I correct that you're looking in  
5     the general course of this choosing this kind of work  
6     who you're looking for fillers to go into the  
7     categories, one of which would be male and Hispanic,  
8     am I correct?

9           A.     Male, he doesn't have to be a Hispanic to be  
10    a filler. There are dark skinned Hispanics that could  
11    pass as an African American.

12          Q.     I see. And in this particular occasion,  
13    were any of the fillers African American?

14                   MS. MATTAWAY: I object.

15                   THE COURT: Sustained. They speak for  
16    themselves, counsel.

17                   MR. BRUNO: Thank you.

18          Q.     Now, also you were asked further questions  
19    about this DD35 which is now Defense Exhibit A. You  
20    said that in reading the phrase "a search of the  
21    file," you assumed that was a PIMS search, am I  
22    correct?

23          A.     Correct.

24          Q.     Now, you said you used a PIMS machine now  
25    many times although not necessarily in the Four Eight

DET. STRADFORD - PEOPLE - RECROSS

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1 Precinct, correct?

2 A. Never in the Four Eight.

3 Q. I understand that. But when you used the  
4 PIMS machine and a DD5, were any kind of police  
5 paperwork results you referred to that as the witness  
6 viewing photos or did you say the witness viewed the  
7 PIMS machine or the PIMS photos?

8 MS. MATTAWAY: I object.

9 THE COURT: Overruled.

10 A. Are you asking me is that what I do for the  
11 defendants?

12 Q. What did you do?

13 A. It all depends. Sometimes.

14 Q. On what?

15 A. Right. You want me to answer?

16 THE COURT: All right. Sustained.

17 Q. It all depends on what?

18 THE COURT: Counsel, stop revisiting.  
19 Counsel, I'm sustaining the objection. You only  
20 need to know what his knowledge was of what was  
21 done in this case.

22 MR. BRUNO: I have nothing further.

23 MS. MATTAWAY: Nothing further. Thank  
24 you.

25 THE COURT: Thank you, Detective. You

1 are excused. People rest?

2 MS. MATTAWAY: People rest.

3 THE COURT: Defense call any witness or  
4 any evidence?

5 MR. BRUNO: No witness.

6 THE COURT: You want to rest on the  
7 record? You want to argue this case?

8 MR. BRUNO: I like to argue it.

9 THE COURT: Excuse me.

10 MR. BRUNO: I like to argue briefly.

11 THE COURT: You can step out.

12 (Witness steps complies.)

13 THE COURT: All right. Counsel, go  
14 ahead.

15 MR. BRUNO: With reference to all three  
16 photo arrays, although for some reason it was not  
17 acknowledged, I think your Honor has to note that  
18 they all are male Latinos or Hispanics.

19 For a Wade hearing, it is noteworthy in  
20 evaluating the detective's demeanor and  
21 credibility for whatever reason, he's extremely  
22 an obstructionist. I maintain less than candid  
23 and credibility is a key issue at such a hearing.

24 In any event, your Honor, I believe  
25 that at least for with reference to

1 Mr. Blaylock's identification, this Exhibit A DD5  
2 number 35 is most important. Again, we have the  
3 detective evaded. We have the detective required  
4 an extensive length of time and questioning.  
5 What it comes down to is that clearly the female  
6 Sharon looked at photos and in effect her job was  
7 done when she identified Manual, my client's  
8 brother.

9 I think it's clear from this document  
10 in spite of the officer's lack of candor, it's  
11 clear from this document in evidence that the  
12 police then pulled a single photo of my client  
13 and showed it to Mr. Blaylock that I believe it  
14 was per se prejudicial and suggestive.

15 In addition, your Honor, I was  
16 precluded for whatever reason from pursuing it  
17 but one major point of believability that the  
18 witness Blaylock tried to convey was that my  
19 client, and he shared a thought, said they had a  
20 common girlfriend.

21 At one point, the tremendous  
22 discrepancy in their age is quite significant  
23 either my client, if that were true, either my  
24 client was a pervert or Blaylock was dating women  
25 some six or seven years older than he at the age



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1 of 14 or 15 when that is a tremendous difference.

2 I have nothing further. The rest of  
3 this I would have to rely upon the record.

4 THE COURT: Okay. All right. The  
5 defendant in this case is charged with a murder  
6 and related charges. He moved to suppress any  
7 potential in-court identifications as the product  
8 of improperly suggestive photo identifications by  
9 three witnesses. A Wade Hearing was held with  
10 respect to two of those witnesses Christopher  
11 Cordero and Andrew O'Brien and a bifurcated  
12 Rodriguez/Wade was held with respect to the third  
13 witness as Esco Blaylock. Detective Stradford  
14 testified on behalf of the People.

15 I find defense offered no witnesses or  
16 evidence. I find Detective Stradford to be  
17 entirely credible. I make the following findings  
18 of fact and conclusions of law.

19 Detective Stradford is a 23-year  
20 veteran of the NYPD, nineteen of those years as a  
21 detectives. In 1995, he was assigned to the Cold  
22 Case Squad. Prior to that, he had been involved  
23 in the robbery squad. Police officer -- excuse  
24 me -- police commissioner investigations and  
25 special investigations. He has prepared over 100

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1 photo arrays and has also shown single photos to  
2 witnesses.

3 In December of 1999, the detective who  
4 was then assigned to the Cold Case part was  
5 assigned the case of a shooting that had occurred  
6 on July 3, 1989 of a young man in the Whitestone  
7 Movie theater leading to the man's death.

8 In response to certain new information  
9 received from the DEA, that case was referred to  
10 the Cold Case file assigned to Detective  
11 Stradford, who reviewed the entire file that had  
12 been forwarded by the precinct.

13 That file indicated that the initial  
14 detective assigned to the case was a retired  
15 Detective Serrano. The file further indicated  
16 that on July 11 of 1989, that Serrano had met  
17 with two alleged witnesses, that being  
18 Mr. Blaylock and also a Sharon Ranroop.

19 After being shown pictures, Miss  
20 Ranroop identified a picture of Manuel Jiminez  
21 and told Detective Serrano that that person was  
22 the brother of the shooter who she knew as Ricky.

23 A subsequent search of the files  
24 produced a photograph of defendant of Ricardo  
25 Jiminez. That picture was then shown to

1 Mr. Blaylock, who identified Ricardo Jiminez as  
2 the shooter.

3 Mr. Blaylock explained to Detective  
4 Serrano that he knew the shooter, he had seen the  
5 defendant from the neighborhood. He knew him as  
6 Leon. They had been introduced by a mutual  
7 friend. He described this Leon as having a  
8 removal of a gold tooth that he drove a Maxima,  
9 that he also had a white car, that he lived on  
10 Boynton Avenue, that at some point Mr. Blaylock  
11 thought that they were dating the same girl but  
12 learned that he was wrong. He had seen defendant  
13 in many fights. He knew that the defendant used  
14 a Jamaican accent at times and that he sold  
15 drugs.

16 He also indicated that this Leon had  
17 dropped out of school, that he lived in the  
18 Monroe Houses, that he before the shooting he had  
19 seen him regularly at least every week but have  
20 not seen him since then in the '90.

21 On January 16th, 2001, Detective  
22 Stradford went to New York State Correctional  
23 Facility to interview Andrew O'Brien. He showed  
24 Andrew O'Brien a photo array that's been received  
25 into evidence as People's Exhibit 1. Mr. O'Brien

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1 identified the defendant as the shooter. He was  
2 not told by the detective which photograph to  
3 pick out. On April 9, a photo array also shown  
4 to Mr. Blaylock --

5 MS. MATTAWAY: April 19.

6 THE COURT: April 19th of '06, another  
7 photo array was shown to Mr. Blaylock who also  
8 picked out defendant as the shooter as Leon.

9 Following that identification from the  
10 photo array, Mr. Blaylock was also shown a single  
11 photo received into evidence as People's 3 which  
12 he signed.

13 On May 17, of 2006, the detective  
14 interviewed Christopher Cordero, who had worked  
15 in the concession stand of the theater, said he  
16 had knew the shooter, the decedent, and he met  
17 with Christopher Cordero on the street. Cordero  
18 was shown a photo array. No suggestion was made  
19 as to Cordero as to who to pick out and he also  
20 picked out the defendant. No suggestion was made  
21 to Blaylock either at the time that he made his  
22 identification.

23 With respect to the three photo arrays  
24 that had been admitted into evidence, the only  
25 person who shows up in all three is the defendant

1 but with respect to all three, all six of the  
2 photographs displayed individuals with similar  
3 age, facial type, complexion, facial features,  
4 facial hair, hair style. They are all  
5 essentially the same background. There's no  
6 distinctive clothing, certainly no clothing that  
7 had any relationship to any descriptions given in  
8 this case that would make anybody focus upon the  
9 defendant. He's wearing a black colored shirt as  
10 are several of the subjects.

11 The Court concludes that, well, first  
12 with respect to the Rodriguez, that Rodriguez,  
13 regardless of whether Mr. Blaylock was shown a  
14 single photograph after Sharon Ramroop had led  
15 the police to defendant's picture or whether he  
16 was shown an array of photographs on a machine or  
17 otherwise that the witness had sufficient  
18 familiarity with the defendant.

19 To preclude any possibility of any  
20 improper suggestiveness effecting his  
21 identification, he was able to identify the  
22 defendant by his nickname, explained the nature  
23 and number of this context, knew very personal  
24 information about the defendant including this  
25 removable gold tooth. That would only be known

1 to somebody who had been in close contact with  
2 the defendant.

3 In any event, the Court would find that  
4 even if the single photo identification to  
5 Mr. Blaylock had in any way suggest that the  
6 passage of over ten years between that  
7 identification and the subsequent identification  
8 would at that point make any suggestion I think  
9 is moot because the passage of ten years being  
10 shown a new photo array that the witness could  
11 not possibly had been effected by any  
12 suggestiveness that may have occurred back in  
13 1989. Although the Court does not believe that  
14 there was any suggestiveness involved in the  
15 first identification.

16 With respect to Christopher Cordero and  
17 Andrew O'Brien, the Court finds that these photo  
18 arrays were non-suggestive in how they were made  
19 up, how they were shown to the witness, what  
20 comments were made to the witness.

21 And the Court therefore concludes  
22 there's nothing in the prior identifications by  
23 any of these witnesses that constituted improper  
24 police conduct such that any of their in-court  
25 identification should be suppressed on

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1 constitutional grounds. The People's photo  
2 arrays themselves don't come in under their  
3 direct case, correct?

4 MS. MATTAWAY: Correct, sadly.

5 THE COURT: All right. That  
6 constitutes the decision and order of this court.

7 \* \* \* \* \*

8 C E R T I F I C A T I O N

9  
10 I, RENÉE SCOTT, do hereby certify that  
11 the within proceedings are a true and accurate  
12 transcript of the original stenographic record.

13  
14   
15 RENÉE SCOTT, CSR, RPR  
16 SENIOR COURT REPORTER  
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